The Passaic River Restoration Initiative

Additional Information to Region X

Dawson & Associates, Washington, D.C.

Presentation Topics

- Contaminated Sediment Problem
- Urban River Restoration Initiative
- Passaic River Restoration Initiative
- Issues and Challenges

National Contaminated Sediment Problem

- 1997/2004 EPA National Sediment Quality Surveys
- 1,372 watersheds studied
- 96 “Areas of Probable Concern”
- 1.2 billion CY contaminated sediment
- Variety of pollution sources

Urban River Restoration Initiative: What is It? (1)

- Outgrowth of IWR brownfields study
- July 2002 MOU between USACE and EPA
- Eight pilot projects
- Interagency, intergovermental program

Urban River Restoration Initiative: What is It? (2)

- Cooperative project planning with stakeholders
- Integrated Planning Model
- Feasibility report to Congress
- Portfolio of solutions

WRDA-CERCLA Integration

- COE WRDA public works & EPA CERCLA processes
- Public works: reconnaissance, feasibility, ROD, PED, construction
- CERCLA: PA/SI, RI/FS, ROD, RD/RA

CERCLA/URRI Comparison I

CERCLA

- Hundreds of PRPs ⇒ extensive litigation
- Discrete geographical focus
- Continuing pollution
- Money consumed by transaction costs

URRI

- Cooperative partnerships
- Watershed approach
- Source reduction
- Money directed to solutions

CERCLA/URRI Comparison II

CERCLA

- Political problems associated with municipal PRPs
- Resource shortages
- Strict, joint, several, and retroactive liability

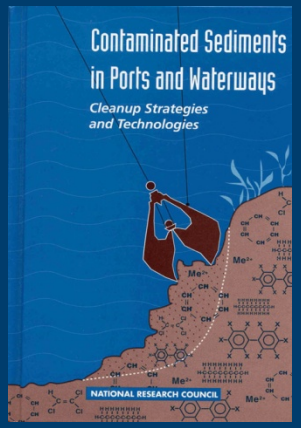
URRI

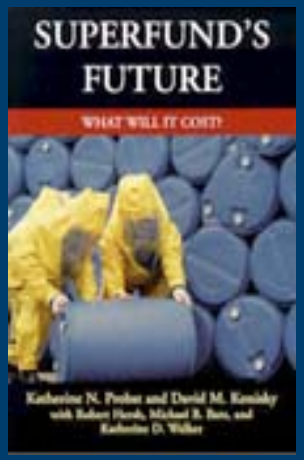
- Broad-based political support
- WRDA/E&WD approach
- Equitable cost sharing

Synergy with Other Programs

- Brownfields redevelopment initiative
- TMDL initiative
- EPA Watershed Planning Initiative
- DOI NRD Watershed Initiative
- NOAA Cooperative Assessment Program

Consistency with Recent Recommendations





- 1997 National Research Council report *Contaminated Marine Sediments in Ports and Waterways: Cleanup Strategies and Technologies*
- EPA 1998 *Contaminated Sediment Management Strategy*
- 2001 Resources for the Future Report *Superfund's Future: What Will it Cost?*

Relevant USACE Authorities

- Planning Assistance to States
- Aquatic Ecosystem Restoration
- Ecosystem Restoration and Protection
- Streambank and Shore Protection
- Interagency Support
- Environmental Dredging

Recent Corps Guidance I

- ER 1165-2-501, *Civil Works Ecosystem Restoration Policy* (30 Sep 99): “Ecosystem Restoration is one of the primary missions of the Civil Works Program.”
- EP 1165-2-502, *Ecosystem Restoration - Supporting Policy Information* (30 Sep 99): “Projects may be formulated to address only ecosystem restoration objectives (or) may address both ecosystem objectives plus other purposes.”

Recent Corps Guidance II

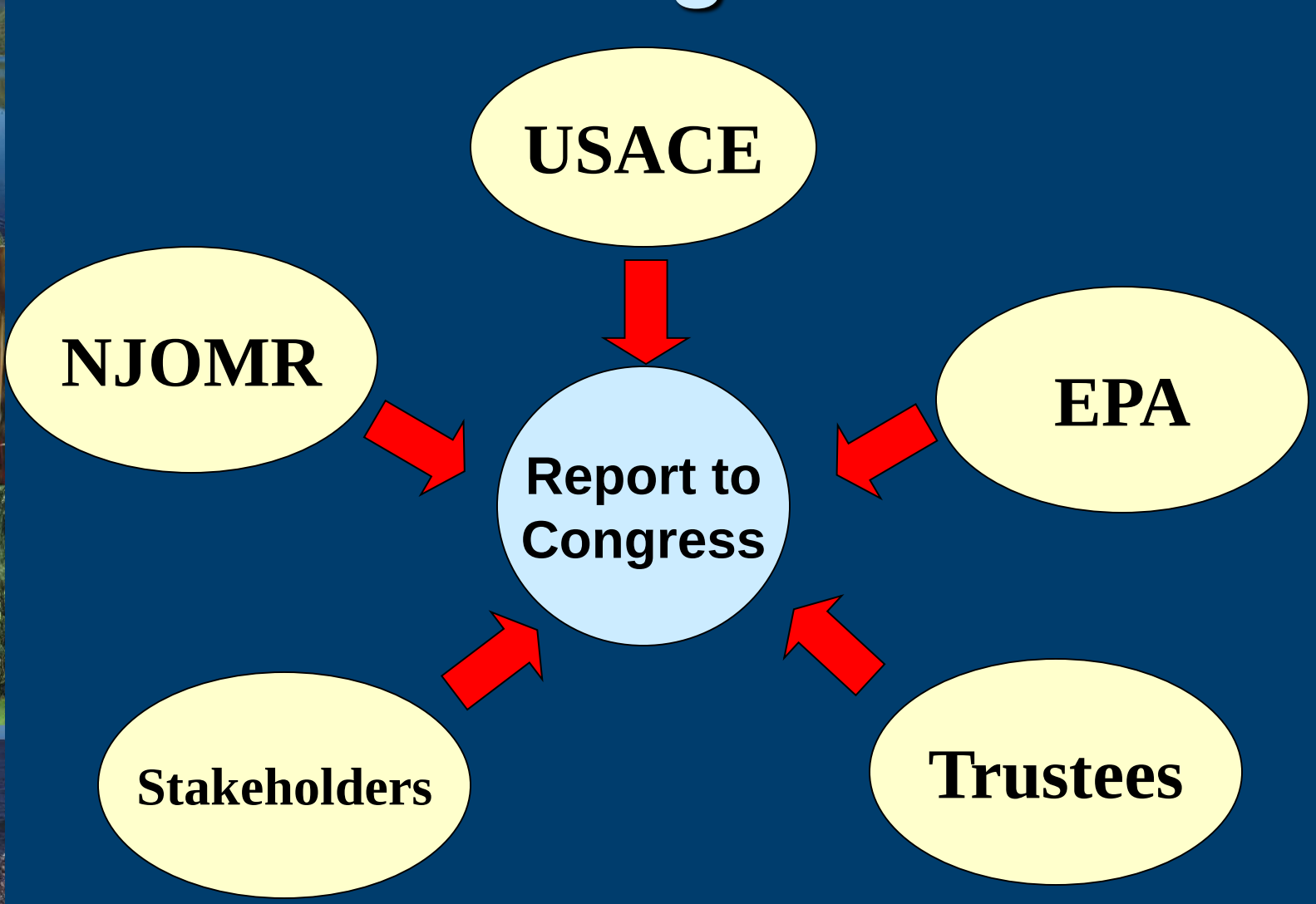
- ER 1105-2-100, *Civil Works Planning Guidance Notebook* (22 Apr 00): “The Corps of Engineers incorporated ecosystem restoration as a project purpose within the Civil Works program in response to the increasing national emphasis on environmental restoration and preservation.”
- “The Corps’ objective in ecosystem restoration planning is to contribute to national ecosystem restoration (NER).”

How Does It Work?
URRI Study Process

<u>Concurrent with CERCLA RIFS</u>

- Reconnaissance Study
- Feasibility Study Cost Sharing Agreement
- Project Management Plan
- Feasibility Study
- Project Cooperation Agreement

Interagency Report to Congress



URRI Cost Assignment Procedures

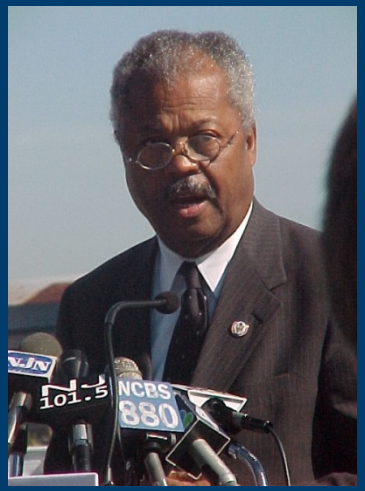
- Allocating to Project Purposes
- Cost Sharing
- Cost Distribution

Flagship Application of URRI: Passaic River, New Jersey

- Congressional involvement
- Federal agency involvement
- Other stakeholders

Parties Involved: House of Representatives

- 10 Members from New Jersey
- House Transportation and Infrastructure Committee
- House E&WD Appropriations Subcommittee



Parties Involved: U.S. Senate

- Both Senators from New Jersey
- Senate Environment & Public Works Committee
- Senate E&WD Appropriations Subcommittee

Parties Involved: Corps of Engineers

- Assistant Secretary of the Army (Civil Works)
- HQUSACE
- North Atlantic Division
- New York District

Parties Involved: Environmental Protection Agency

- Asst. Administrator (OSWER)
- Asst. Administrator (Water)
- Director, Superfund Division
- Chairman, EPA Contaminated Sediment Mgmt Committee
- EPA Region 2

Parties Involved: Department of the Interior

- Assistant Secretary – Policy, Management & Budget
- Assistant Secretary – Fish & Wildlife & Parks
- Office of Environmental Policy and Compliance
- Office of the Solicitor

Parties Involved: NOAA

- Administrator
- General Counsel
- Damage Assessment Center

Parties Involved: Department of Justice

- Assistant Attorney General for Environment and Natural Resources
- Senior litigators

Parties Involved: White House

- Office of Management and Budget
- Council on Environmental Quality

Parties Involved: NGOs

- Passaic River Coalition
- Environmental Defense
- American Rivers
- Audubon Society

Parties Involved: State Government

- NJ Office of Maritime Resources
- NJ Department of Environmental Protection
- New Jersey Senate
- New Jersey Assembly

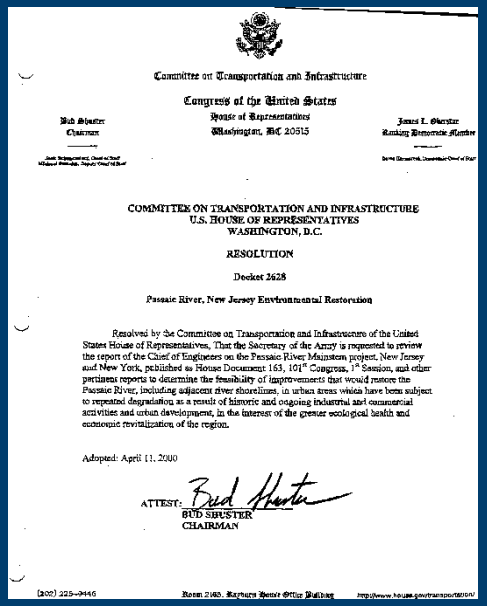
Department of Environmental Protection

New Jersey Legislative Resolutions

- Senate Resolution No. 75, March 21, 2005
- Assembly Resolution No. 227, May 16, 2005

Congressional Actions to Date

- House Resolution # 2628 (April 11, 2000): Passaic River, New Jersey Environmental Restoration



Committee on Transportation and Infrastructure

Congress of the United States
House of Representatives
Washington, DC 20515

Bud Shuster
Chairman

James L. Oberstar
Ranking Democratic Member

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

RESOLUTION

Docket 2628

Passaic River, New Jersey Environmental Restoration

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on the Passaic River Mainstem project, New Jersey and New York, published as House Document 163, 101st Congress, 1st Session, and other pertinent reports to determine the feasibility of improvements that would restore the Passaic River, including adjacent river shorelines, in urban areas which have been subject to repeated degradation as a result of historic and ongoing industrial and commercial activities and urban development, in the interest of the greater ecological health and economic revitalization of the region.

Adopted: April 11, 2000

ATTEST: Bud Shuster
BUD SHUSTER
CHAIRMAN

(202) 225-9446 Room 2165, Rayburn House Office Building http://www.house.gov/transportation/

- FY 2001 Senate Energy and Water Development Appropriations Report
- FY 01 - 07 Energy and Water Development Appropriations Acts

Government URRI Publications

US Army Corps of Engineers

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millett.john@.epa.gov

EPA, CORPS A
CONTAMINATE

EPA and the U.S
projects to promote
River in New Jersey
City Creek in Utah.

"These rivers are inv
Lamont Horinko, "an
and public health pr

"These projects also
Robert Griffin, Acting
excellent examples
represent a win-win
valuable water resou

The four pilot project
Administrator of EPA
Army Corps of Engi
Office of Solid Wast
Community Researc
for leaders from the
develop strategies t
revitalization.

Restoration of Degraded Urban Rivers Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of the Army

US Army Corps of Engineers

Background

Many urban reaches of rivers in the United States suffer from contaminated sediments, degraded water quality, and lost habitat. These conditions adversely affect human health, as well as the ecological value of aquatic resources and limit recreational and other economic uses. Collaboration between the U.S. Department of the Army and the U.S. Environmental Protection Agency (EPA) on activities that address problems of aquatic sediment contamination can significantly improve public health and the effectiveness of efforts to restore the use and enjoyment of these rivers.

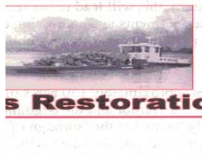
The EPA deals with river sediment contamination through a variety of environmental programs in the Office of Solid Waste and Emergency Response, as well as various programs in the Office of Water. Likewise, the U.S. Army Corps of Engineers (USACE) is involved with numerous river-related activities, including operation and maintenance of navigation channels and harbors, flood control and ecosystem restoration.

Purpose of the MOU

The memorandum of understanding (MOU) between EPA and the Department of the Army provides the framework for coordinating their legal and regulatory authorities with respect to environmental restoration of degraded urban rivers. This MOU also promotes cooperation between EPA's remediation and water quality activities and the USACE's environmental restoration, navigation and waterways maintenance activities.

The agreement establishes a mechanism of cooperation and coordination and expresses the EPA's and USACE's intent to work together to resolve any conflicts using, as appropriate, consensus building and collaborative decision-making to find common ground and identify practical solutions.

Under this cooperative approach, EPA and USACE will jointly select eight demonstration pilot projects over the next 12 months. In partnership with state and local governments, tribal authorities and private organizations, the projects will focus on water quality improvement, contaminated sediment remediation, riparian habitat restoration and land revitalization.



US Army Corps of Engineers

s Restoration Initiative

July 2003

tes Environmental Protection Agency (EPA) and the U.S.
ntered into a Memorandum of Understanding (MOU) to
wo agencies to address critical water quality issues and
use and enjoyment of urban rivers. As part of the MOU, the
ght (8) demonstration pilot projects for the purpose of
ution of urban river cleanup and restoration.

norization or appropriation for this Initiative, it encourages the
Congressionally authorized and appropriated activities and
e auspices of urban rivers restoration. An Urban Rivers pilot
coordination and cooperation between the EPA and the U.S. Army
ng degraded urban rivers, will help to increase efficiency of Agency
rdinated delivery of federal services, and will coordinate remedial,
ration activities under the Comprehensive Environmental
y Act (CERCLA), Resources Conservation and Recovery Act
d various Water Resources Development Acts (WRDA).

quely designed to address river sediment contamination through
s in the Office of Solid Waste and Emergency Response and
Water. Likewise, the US Army Corps of Engineers is involved
es, including operation and maintenance of navigation
and ecosystem restoration.

nacostia River (Washington, DC and Maryland),
rs (Rhode Island and Massachusetts), Elizabeth River
were announced in April 2003.

ted under this Initiative are:

stretch beginning at Dundee Dam in Garfield and extending to
tershed consists of approximately 173 square miles located in
the highly urbanized areas of northeastern New Jersey, including Bergen, Essex, Hudson and
Passaic Counties. This urban rivers pilot will emphasize partnerships among many organizations
striving to improve sediment and water quality. The pilot proposes to conduct a comprehensive
study of the Lower Passaic River to determine an appropriate remediation and restoration plan for

Publications and Presentations (1)

- "Restoring Urban Rivers: A New Approach," *The Military Engineer*, October 2001
- "Cry Me a River: The Passaic River Restoration Provides a Nationwide Model for Addressing Polluted Urban Rivers," *Pollution Engineering*, September 2001

- "The Passaic River Restoration: A New Approach to Polluted Urban Rivers," *New Jersey Municipalities*, May 2001
- "Passaic River Restoration Initiative: A New Approach to the Comprehensive Restoration of Aquatic Environments," SETAC Hudson-Delaware Regional Chapter Fall Workshop, Newark, NJ, September 21, 2001

Publications and Presentations (2)

- "Natural Resource Trustee Partnering in the Urban River Restoration Initiative," *Federal Facilities Environmental Journal*, Winter 2004
- "Passaic River Restoration Initiative: A New Model for Cleaning Up Our Nation's Contaminated Urban Rivers," *EPA Forum on Managing Contaminated Sediments at Hazardous Waste Sites*, Alexandria, Virginia, May 30, 2001
- "Urban River Restoration Initiative: Key to Brownfields Redevelopment Success in Urban River Corridors," EPA *Brownfields 2000 Conference, Atlantic City, NJ*
- *"A New Approach to Cleaning up Our Nation's Contaminated Urban River Corridors," American Society of Engineering Management Seminar, Washington, D.C., March 22, 2002*

Publications and Presentations (3)

- “Genesis of the Urban River Restoration Initiative,” EPA Brownfields 2004 Conference, St. Louis, Missouri, September 21, 2004
- “Urban River Restoration Initiative: A New Approach to Restoring Degraded Urban Rivers,” AAPA Harbors, Navigation and Environment Seminar, New Orleans, Louisiana, May 13, 2004
- “A New Approach to Addressing Contaminated Sediments,” EPA Land Renewal Network Conference, Washington, D.C., June 4, 2002

Publications and Presentations (4)

- “An Alternative to CERCLA: Urban River Restoration Initiative,” American Chemistry Council Waste Network Meeting, Baltimore, Maryland, June 14, 2001
- “Integration of WRDA Restoration and CERCLA Remedial Processes at Urban Waterway Superfund Sites,” EPA Technical Support Project General Meeting, San Diego, California, May 10, 2001
- “Natural Resource Partnering in the Urban River Restoration Initiative,” U. S. Department of the Interior Conference on the Environment, Phoenix, Arizona, May 15, 2003
- “Passaic River Restoration Initiative: A New Model for Cleaning Up Our Nation’s Contaminated Urban Rivers,” EPA Forum on Managing Contaminated Sediments at Hazardous Waste Sites, Alexandria, Virginia

Issues and Challenges

- Availability of Federal funding
- Polluter pay policy
- Cost distribution
- Opposition

Issues and Challenges: Availability of Federal Funding

- Office of the Assistant Secretary of the Army (Civil Works)
- Office of Management and Budget
- House of Representatives
- U.S. Senate

Issues and Challenges: Polluter Pay Policy

- What is the polluter pay policy?
- Polluter pay does not mean 100%
- Chemical contamination is one of only many problems
- Orphan shares
- Role of public entities

Issues and Challenges: Cost Distribution

"The non-Federal share of the cost of a qualified project carried out under the GLLA may include the value of in-kind services or cash contributed by a non-Federal sponsor including any in-kind service performed under an administrative order on consent or judicial consent decree, but excluding any in-kind service or cash contributed performed under a unilateral administrative order or court order."

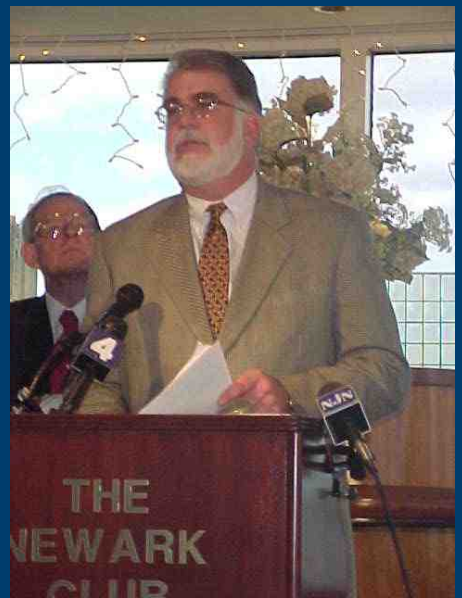
How Cooperating Parties Can Thrive

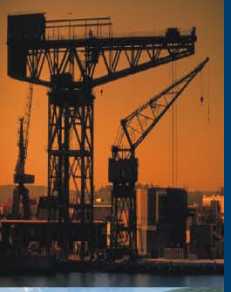
- Stick together – work as a group
- Actively help to advance river restoration
- Keep eyes on the end game

PRRI – A Wave of Momentum (1)

PRRI – A Wave of Momentum (2)

PRRI – A Wave of Momentum (3)

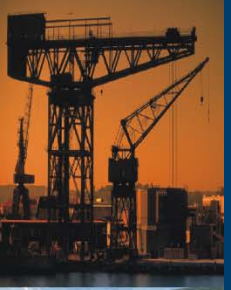






The Bottom Line

Looking to the Future of the Passaic River





Discussion